

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 23-CR-20271-BLOOM

UNITED STATES OF AMERICA,

v.

**BRETT BLACKMAN,
GARY COX, and
GREGORY SCHRECK,**

Defendants.

/

STATUS REPORT REGARDING SPEEDY TRIAL

Pursuant to Southern District of Florida Local Rule 88.5 (“Rule 88.5”) and the Court’s Scheduling Order [ECF Nos. 25], the United States of America submits the following Status Report Regarding Speedy Trial:

1. On June 27, 2023, defendants Brett Blackman (“Blackman”), Gary Cox (“Cox”), and Gregory Schreck (“Schreck”) were indicted in the Southern District of Florida on charges of Conspiracy to Commit Health Care Fraud and Wire Fraud, in violation of Title 18, United States Code, Section 1349; Conspiracy to Pay and Receive Health Care Kickbacks, in violation of Title 18, United States Code, Section 371; and Conspiracy to Defraud the United States and Make False Statements in Connection with Health Care Matters, in violation of Title 18, United States Code, Section 371. [ECF No. 1].

2. On June 28, 2023, the initial appearances of Blackman and Schreck were held in the District of Kansas pursuant to Federal Rule of Criminal Procedure 5(c)(2)(A). [ECF Nos. 7, 8]. On July 28, 2023, Magistrate Judge Lauren F. Louis conducted Blackman and Schreck’s initial appearances and arraignments in the Southern District of Florida. [ECF Nos. 17, 18].

3. On August 1, 2023, Cox's initial appearance was held in the District of Arizona pursuant to Federal Rule of Criminal Procedure 5(c)(2)(A). [ECF No. 16]. On August 8, 2023, Cox appeared before Magistrate Judge Lisette M. Reid for his initial appearance in the Southern District of Florida. [ECF No. 21]. Judge Reid conducted Cox's arraignment the following day, August 9, 2023. [ECF No. 22].

4. On August 10, 2023, the Court entered a Scheduling Order setting Defendants' trial for the two-week trial period commencing on September 11, 2023. [ECF No. 25].

5. On August 21, 2023, the parties filed a Joint Motion to Continue Trial Date and requested that trial begin on or after June 24, 2024. [ECF No. 32]

6. The Court granted the motion, continuing the trial date to August 12, 2024. [ECF No. 34]. The Court found that "the period of delay resulting from this continuance, August 21, 2023, to and including the date trial commences, shall be deemed excludable time pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i), and (h)(7)(B)(ii) . . ." *Id.*

7. "[T]he trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs." 18 U.S.C. § 3161(c)(1). Certain periods of delay are excluded in computing the time within which trial must commence. *See* 18 U.S.C. § 3161(h). Specifically, "delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion" is excluded. 18 U.S.C. § 3161(h)(1)(D).

8. A time exclusion that applies to one defendant in a multi-defendant case applies to all defendants. *See United States v. Stafford*, 697 F.2d 1368, 1372 (11th Cir. 1983); *United States*

v. Darby, 744 F.2d 1508, 1517 (11th Cir. 1984); 18 U.S.C. § 3161(h)(6). Further, in a multi-defendant case, the Speedy Trial clock begins to run after the last defendant has his initial appearance. *See United States v. Harris*, 567 F.3d 846, 849 (7th Cir. 2009) (finding that time between initial appearance of a defendant and subsequent initial appearance of a codefendant was excludable under 18 U.S.C. § 3161(h)(6)).

9. In the present case, the Speedy Trial clock began to run on August 8, 2023, when the last defendant, Cox, had his initial appearance in the Southern District of Florida.

10. And pursuant to paragraph 4 of Judge Bloom's Scheduling Order (Aug. 22), the time period between August 21, 2023, and August 12, 2024, is also excluded under the Speedy Trial Act. [ECF No. 34].

11. Additionally, August 16 and 17 are excluded from the Speedy Trial time computation due to pretrial motions that were pending on those dates. *See* ECF Nos. 19, 20, 31, 32; 18 U.S.C. § 3161(h)(1)(D).

12. Accordingly, 10 days of Speedy Trial time have elapsed thus far (August 9-15 and August 18-20).

13. The Government conferred with counsel for Blackman and Cox, and neither had an objection to this report. The Government was unable to obtain the position of counsel for Schreck, as he is unavailable until next week.

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WHEREFORE, the Government respectfully submits this status report regarding Speedy Trial.

Dated: August 30, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 30, 2023, I electronically filed the foregoing document onto the Court's CM/ECF system.

/s/ Shane Butland

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U.S. Department of Justice